

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 2226 - HB 2380

March 4, 2018

SUMMARY OF BILL: Creates a sales and use tax credit, up to \$500,000 per cellular tower, to a cellular phone service provider that builds a cellular tower in an unserved area.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue – Exceeds \$955,000/One-Time

Forgone State Revenue – Exceeds \$140,000/One-Time

Increase Local Revenue – Exceeds \$50,000/One-Time

Other Fiscal Impact – Secondary economic impacts may occur as a result of this legislation. Due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

Assumptions relative to cellular towers:

- The proposed language would entitle a cellular phone service provider that builds a cellular tower in an unserved area to a sales and use tax credit equaling one half of the lease costs and one-half of the building costs for erecting the cellular tower, not to exceed \$500,000 per cellular tower erected.
- The proposed sales and use tax credit is applicable only for state sales and use taxes, computed according to total costs associated with building and leasing each applicable cellular tower and is not a credit based on total sales and use taxes paid on such building and leasing costs.
- All cellular phone service providers constructing towers as a result of this legislation will be privately-owned and operated.
- There is no deadline placed on cellular service providers for applying for the established tax credit.
- The proposed language defines “unserved area” as an area which does not have cellular phone service.
- While it is unknown how much area within the state is considered unserved area, as defined by the proposed language, it is reasonably assumed the area is restricted and not densely populated, with cellular tower coverage reaching an estimated 22 miles per

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tower. It is reasonably estimated that at least 10 new towers will be erected as a direct result of this legislation and the applicable cellular service providers will qualify for the proposed tax credit.

- Cellular phone service providers will build the towers and upon completion, apply for the tax credit provided in this legislation.
- The average cost to construct a cellular tower is estimated to exceed \$200,000 with lease costs estimated to exceed \$5,000 per tower.
- During construction of the towers, the cellular provider will pay state sales and use taxes on building materials purchased. State sales and use taxes collected are estimated to exceed \$14,000 ($\$200,000 \text{ building costs} \times 7\% \text{ state sales tax rate}$) per tower constructed.
- Total one-time expenditures for cellular phone service providers associated with erecting cellular towers in unserved areas are estimated to exceed \$2,190,000 [$(\$200,000 \text{ building costs} + \$14,000 \text{ state sales tax} + \$5,000 \text{ leasing costs}) \times 10 \text{ towers}$], with a total eligible tax credit exceeding \$1,095,000 ($\$2,190,000 \text{ total expenditures} \times 50\% \text{ eligible for credit}$).

Assumptions relative to state revenue:

- Cellular service providers erecting new cellular towers in unserved areas as a direct result of this legislation will receive a tax credit for state sales and use taxes, calculated on a total eligible amount of expenditures estimated to exceed \$1,095,000.
- The total amount of state sales and use tax collected on tower built as a direct result of this legislation is estimated to exceed \$140,000 ($\$14,000 \text{ sales and use tax per tower} \times 10 \text{ towers}$).
- Because cellular service providers are receiving a sales and use tax credit for towers which would not have been built in the absence of this legislation, and such tax credit is based on total costs associated with building and leasing cellular towers and not based solely on sales and use taxes which were actually remitted, the state will not only forgo the sales and use taxes it collected from the newly-constructed cellular towers; the state will experience further decreases in revenue as a result of the additional portion of the tax credit above and beyond that of the sales taxes that would otherwise be paid, which equals the total credit allowed less than the sales taxes remitted.
- The proposed language will result in one-time forgone state revenue estimated to exceed \$140,000; and a one-time decrease in state revenue estimated to exceed \$955,000 ($\$1,095,000 \text{ minimum total tax credit} - \$140,000 \text{ minimum forgone sales and use tax revenue}$).

Assumptions relative to local revenue:

- The proposed language only provides for a tax credit on state sales and use taxes; however, local option sales and use taxes will still be applied to applicable purchases.
- At least 10 additional cellular towers will be constructed as a result of this legislation, resulting in an increase in local government revenue from local option sales taxes charged on applicable building materials.

- The proposed language is estimated to result in a one-time increase in local government revenue exceeding \$50,000 (\$200,000 building costs per tower x 10 minimum towers x 2.5% local option sales tax rate).

Assumptions relative to secondary economic impacts:

- There could be subsequent impacts on state and local government revenue and expenditures as a result of secondary economic impacts prompted by the passage of this legislation. Due to multiple unknown factors, the fiscal impacts attributable to such secondary economic impacts cannot be quantified with reasonable certainty. Any such fiscal impacts are not considered direct impacts for the purposes of this fiscal analysis.

IMPACT TO COMMERCE:

Increase Business Expenditures – Net Impact - Exceeds \$1,095,000/One-Time

Other Commerce Impact – Recurring increases in business revenue cannot be quantified due to multiple unknown variables.

Jobs Impact – The extent of any job creation experienced due to passage of this bill cannot reasonably be determined.

Assumptions:

- The proposed language will result in at least ten additional cellular service towers being constructed by privately-owned and operated cellular service providers, resulting in an increase in business expenditures estimated to exceed \$2,190,000.
- The proposed tax credit will result in a decrease in business expenditures associated with payment of state sales and use taxes estimated to exceed \$1,095,000 (\$2,190,000 x 50% eligible tax credit).
- The net one-time increase in business expenditures is estimated to exceed \$1,095,000 (\$2,190,000 total investment - \$1,095,000 tax credit).
- Privately-owned and operated cellular service providers electing to install cellular towers in unserved areas will experience an increase in business revenue occurring as a direct result of the infrastructure established and additional customers utilizing the cellular service; however, the extent of the increase in business revenue cannot reasonably be quantified due to multiple unknown variables such as the number of customers receiving service through each cellular tower, and the extent of any rates charged per customer.
- Due to multiple unknown variables such as the number of privately-owned businesses who will opt to erect cellular towers as a direct result of this legislation, if such businesses will utilize existing staff for erecting such towers or if hiring of additional staff will be required, the extent of any new positions created and the extent of any additional impact to commerce cannot reasonably be determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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